IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2007

CORAM :

THE HON'BLE MR. JUSTICE S.TAMILVANAN

A.S.No.553 of 1996

The Special Tahsildar
Adi Dravidar Welfare,
Polur. .... Appellant
(Referring Officer)

vs.

Karappan
.... Respondent
(Claimant)

Appeal filed against the Judgment and Decree, dated 21.04.1995 made in L.A.O.P.No.42 of 1993 on the file of the Subordinate Judge, Tiruvannamalai.

For Appellant : Mr.V.Ravi, Spl.G.P. (AS)
For Respondent : No appearance

JUDGMENT

This appeal has been preferred by the Referring Officer against the Judgment and Decree, dated 21.04.1995 made in L.A.O.P.No.42 of 1993 on the file of the Land Acquisition Tribunal / Court of Subordinate Judge, Tiruvannamalai.

2. Heard, the learned Special Government Pleader (AS). Continuously, there was no representation for the respondent, though service of notice is sufficient and the learned Special Government Pleader appearing for the appellant has been ready. Hence, considering the evidence available on record, Judgment is passed on merits.

3. It is seen that 1.08.5 hectares (2.54 acres) of land in S.No.104 6A & 6B, Kaliam Village, Polur Taluk, was acquired by the appellant for the purpose of providing house sites to Adi Dravidars, for which, Section 4 (1) Notification under the Land Acquisition Act had been issued on 12.07.1989. After the enquiry, the award was passed in A.No.6/91-92, dated 20.11.1991 by the Land Acquisition Officer, fixing the market value at Rs.7,512/- per acre. Aggrieved by which, at the request of the claimant, the matter was referred under Section 18 of the Land Acquisition Act. The Land Acquisition Tribunal, by the impugned judgment, dated 21.02.1995 has

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enhanced the compensation at the rate of Rs.50,000/- per acre and directed the appellants to pay compensation at the aforesaid market value with 30% solatium, interest and cost as per the Land Acquisition Act.

4. Learned counsel for the appellant drew the attention of this Court to the impugned judgment, where the respondent / claimant was examined as C.W.1, but no document was marked on the side of the claimant for enhancement of compensation awarded by the Land Acquisition Tribunal. Whereas on the side of the appellant / respondent, R.W.1 and R.W.2 were examined and Exs.R.1 to Ex.R.5 were marked. The learned trial Judge, without any basis or evidence has stated in the judgment at paragraph 9 that the land is situated on the Kaliyamampattu road nearby the residential houses, school, rice mill and that it is a fit land to be treated as house site and on that basis, compensation was enhanced from Rs.7,512/- to Rs.50,000/- per acre by the court below. Since the enhancement of compensation has been decided without any document or evidence, this Court is of the view that to meet the ends of justice, it is needed to set aside the impugned Judgment and Decree, so as to remit back the matter to the Land Acquisition Tribunal for fresh disposal, according to law.

5. In the result, the appeal is allowed and the impugned Judgment and Decree passed by the court below is set aside and the matter is remitted back to the trial court for fresh disposal, according to law. However, there is no order as to costs.

6. The Land Acquisition Tribunal is directed to provide reasonable opportunity to both sides for adducing further evidence and dispose the same according to law, within three months from the date of receipt of a copy of this order.

tsvn

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To
1. The Subordinate Judge, Tiruvannamalai.

2. The Section officer, V.R.Section,
   High Court, Madras.

+1 cc to The Government Pleader Sr.No.69415.

SCD(CO)
DCP/30.1

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